

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

JOE BARELA, AMANDA DE LA CRUZ,  
SANDRA DONAHEY, THOMAS HENRY,  
ROBERT MITCHELL, ANDRES NEVARES,  
MAXINE SANDOVAL, FELIPE TENA, JR.,  
REBECCA WOODRUFF, and CHRIS ZAMORA,  
on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

CIV 12-0020 KBM/ACT

BOARD OF COUNTY COMMISSIONERS  
OF VALENCIA COUNTY,

Defendant.

**ORDER ON PLAINTIFFS' MOTION FOR  
CERTIFICATION OF THE COLLECTIVE ACTION**

THIS MATTER is before the Court on Plaintiffs' Motion for Certification of the Collective Action and Court-Facilitated Notice to Similarly-Situated Employees (*Doc. 46*). Pursuant to 28 U.S.C. § 636(c) and FED. R. CIV. P. 73(b), the parties have consented to me serving as the presiding judge and entering final judgment. Having reviewed the motion and memoranda and exhibits submitted by the parties, it appears that the motion is well taken with the limitation on the proposed class members as set forth in Plaintiff's Reply.

In their motion, Plaintiffs seek: "(1) conditional certification of the suit as a collective action under 29 U.S.C. § 216(b) for notice purposes, (2) an order compelling Defendant to produce the names and last known addresses for each member of the potential collective action, as defined herein, and (3) court-facilitated notice of this lawsuit to all City of Albuquerque current and former employees who were employed during the pay period of January 6, 2009, through the present. *Doc. 46* at 1. In its response, the Defendant Board put forth only one

argument in opposition to the motion – that the proposed class of “*all* City of Albuquerque current and former employees” is over-inclusive and includes some who are not similarly-situated to Plaintiffs. *See Doc. 49* (emphasis added).

Plaintiffs now acknowledge that their proposed class as initially formulated included some employees who are not similarly-situated, and now “propose that notice of the right to opt in to the FLSA and state law action be provided to all present and former *Correctional Officers, Sergeants and Lieutenants at VCDC* employed during the January 6, 2009 pay period to the present pay period.” *Doc. 50* at 4. It appears to the Court that such a modification is appropriate and would accurately describe the similarly-situated class members. However, the Board has not been heard on this proposal and should be given that opportunity, if it so desires.

Wherefore,

**IT IS HEREBY ORDERED** that no later than January 14, 2013, Defendant file its opposition, if any, to limiting the proposed class as modified by Plaintiffs in their Reply and granting the relief sought by Plaintiffs in their motion.

  
UNITED STATES CHIEF MAGISTRATE JUDGE